



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/170782

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 15, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a telephone hearing was held on February 02, 2016.

The issue for determination is whether the petitioner's was eligible for MA in September, 2015.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]

Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has been found eligible for nursing home MA. He seeks coverage for September, 2015, when the respondent determined him ineligible due to assets exceeding program limits that month.

3. In September, 2015, petitioner's assets totaled \$2,546.00. The overage was due to an inadvertently missed payment from petitioner's account that would have reduced petitioner's assets below the program limit.

### **DISCUSSION**

The MA asset limit for an individual is \$2,000. Wis. Stat., §49.47(4)(b)3g. If assets are above that limit, the person is not eligible for MA. The statute does not allow for outstanding debts to be deducted from assets, nor does it provide any exceptions for unusual situations. In determining the value of a bank account in a given month, the agency does not count income received in that month. MA Handbook, Appendix 16.1.0.

The county was correct in its determination of petitioner's assets for September, 2015. Petitioner's representative argued that the asset balance exceeded program limits due to unintentional error by representative in failing to make a certain payment. However, the statute does not allow for deductions from assets for unpaid financial obligations, or in situations where a representative makes an error that allows the value to be above \$2,000.

The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant him relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, he was not eligible for MA in September, 2015; no exception applies; and I am without any equitable powers to direct any remedy beyond the remedies available under law.

### **CONCLUSIONS OF LAW**

The agency correctly determined that petitioner's assets were over the MA limit in September, 2015.

**THEREFORE, it is**

### **ORDERED**

That the petition for review herein be and the same is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 28th day of March, 2016

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on March 28, 2016.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability